

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.135 OF 2021

Mandira
Salgaonkar

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Mandira Salgaonkar
Date: 2021.02.05
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Sandip Bhalchandra Wagh	)	
Age : 23 years, Occ : Private Service,	)	
R/o : N51/AH/2/3, Rajratna Nagar,	)	
CIDCO, Nashik	)..	Petitioner

Versus

- | | | |
|--|------|--------------------|
| 1. The State of Maharashtra |) | |
| Through its Principal Secretary, |) | |
| Home Department, Mantralaya, |) | |
| Mumbai -32. |) | |
| |) | |
| 2. The Divisional Commissioner, |) | |
| Nashik Division, Nashik, |) | |
| Office at Commissioner Office, |) | |
| Nashik Road, Nashik. |) | |
| |) | |
| 3. The Deputy Inspector General of Police |) | |
| (Prison) |) | |
| Central Division, Central Prison, |) | |
| Harsul, Aurangabad |) | |
| |) | |
| 4. The Superintendent of Prison, |) | |
| Central Prison, Nashik Road, |) | |
| Nashik |) .. | Respondents |

...

Mr.Piyush Toshnival for the Petitioner.

Mr.J.PYagnik, APP for the Respondent/State.

...

**CORAM: S.S.SHINDE &
MANISH PITALE, JJ.**

DATED : 2ND FEBRUARY, 2021

ORAL JUDGMENT (PER S.S.SHINDE, J.) :-

1. Rule. Rule made returnable forthwith. With the consent of learned counsel appearing for the parties, heard finally.
2. The learned APP, has tendered across the bar, report received from the Superintendent, Nashik Road Central Prison, Nashik. Same is taken on record. In the said report, it is stated that there are less inmates than the requisite capacity of the jail. It is further stated that preventive steps are being taken to avoid the spread of Covid-19 virus. The sum and substance of the report is that the conditions in the jail are proper and the contention of the petitioner that there is a threat of spread of Covid-19 virus has no substance.
3. Learned counsel appearing for the petitioner submits that the prayer of the petitioner stands rejected only on the ground that till date he is not released on parole, even once in past. According to the learned counsel for the petitioner, the application of the petitioner to release him on Covid parole should not have been rejected on said ground. In support of the aforesaid contention, the learned counsel appearing for the petitioner, has placed reliance on the unreported judgments of this Court in case of ***Kalyan s/o Bansidharrao Renge Vs. The State of Maharashtra & Anr.*** (Criminal Writ Petition No.ASDB-LD-VC 265 of 2020 decided on 28th August, 2020) and in case of ***Uzair @ Hujer S/o Rafiq Shaikh Vs. The State of Maharashtra & Ors.*** (Criminal Writ Petition (St) No.2989 of 2020 decided on 22nd October, 2020).

4. We have heard the learned counsel appearing for the parties. Upon perusal of the reports submitted by the learned APP, it is abundantly clear that the number of prisoners in the said jail are less than the capacity to accommodate the prisoners in the said jail. Secondly, the report suggests that all care is being taken to prevent the spread of Covid-19 virus in the jail. In that view of the matter, we cannot restrict our adjudication to the reasons assigned in the impugned order. We find considerable substance in the submissions of the learned counsel appearing for the petitioner that his application has been rejected only on one ground that the petitioner was never released on parole in the past.

5. We, therefore, quash and set aside the impugned order and direct the respondent-jail authority to re-consider the prayer of the petitioner to release him on Covid Parol/Parol/Furlough. The petitioner to file a fresh application within one week from today. In case, such an application is filed, concerned authority shall decide the same within two weeks from the date of filing of such application.

6. With the above observations, the writ petition stands disposed of. Rule stands discharged accordingly.

(MANISH PITALE, J.)

(S.S.SHINDE, J.)